3:Wallace & Hoebel E-4, 5 (1933, 1945) 1952
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IX

Government and Law

IN a society as simple and as homogeneous as was that of the Comanches there is little need for the development of governmental institutions. Add to this the extreme individualism of the Comanches, and a situation exists in which neither social needs nor ideology work to stimulate the development of government. Consequently, Comanche government was at a minimum, legal precepts were rudimentary, and the enforcement of the simple substantive law remained the responsibility of individuals rather than of officials.

Just as the Comanche made no attempt to organize a philosophy of religion or to systematize a conception of man's place in nature, so he made no attempt to generalize or formalize the rules underlying his legal system or the constitutional structure of his state. For instance, when That's It was asked about the Comanche peace chiefs, he said, "I hardly know how to tell about them. They never had much to do except to hold the band together."

To the Comanche, law was not an expression of social policy, but rather a series of individual responses to threatening situations. Descriptively we can note the Comanche point of view. Analytically we are not content to stop at this level. The Comanches had more law than they themselves recognized.

Ralph Linton has expressed that thought in these words: "Different cultures show a tremendous amount of difference in the degree to which their patterns are consciously formalized. My experience

3: Wallace & Hoebel E-4, 5 (1933, 1945) 1952
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671 with Polynesians and Comanches illustrates this: Polynesians can give you practically an Emily Post statement of what proper behavior should be on all occasions, whereas Comanches, when asked how they do anything, immediately answer, 'Well, that depends.' They genuinely think of behavior as a range of unlimited, individual, freedom of choice, although when you take a series of examples of behavior, as Hoebel did, you actually find quite a high degree of uniformity. But you have to check Comanche behavior to arrive at this."[1]

In other words, to learn about Comanche law, it is necessary not to talk about "law" when doing field work with the Comanches, but rather, through utilization of the case-law method of legal recording and analysis, to accumulate a sizeable body of case histories of dispute situations from which the regularity of legal patterns can be abstracted.[2]

Before presenting the facts of their law, it is necessary to describe the nature of the Comanche state.

●642 The basic principle of Comanche political organization was the constitutional separation of civil and military leadership. For a warlike people this separation was quite remarkable, although, of course, it was a general North American Indian practice for which the Comanches cannot be singled out for credit.

622 The peace chief was known as *paria:βo* and each family encampment had its *paria:βo*, whom we shall call either "peace chief" or "headman." There was reluctance on the part of the Comanches to accord him formal recognition, but genuine recognition of his powers was reflected in the attention given to his advice and in the general subordination to his influence. It was one of these family headmen who was elevated to the position of head peace chief of the band; the remainder of the chiefs functioned as an advisory council for the band as a whole and at the same time maintained their positions as family headmen to their own group of followers. The chief, or headman, was chairman, so to speak, of the group. He was *primus inter pares*.

There is no explicit way of saying how a man became a civil

[1] Ralph Linton in S. S. Sargent and M. W. Smith (eds.) *Culture and Personality*, 123.

[2] Cf. Hoebel, *The Political Organization and Law-Ways of the Comanche Indians*, 181.

3: Wallace & Hoebel E-4. 5 (1933, 1945) 1952
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The Comanches

701 The warriors of most of the Plains tribes were organized into a series of fighting societies or military fraternities. These organizations were secondarily arms of the tribal government or, at least, they functioned as strong pressure groups.[10] The Comanches, however, in keeping with their lack of internal segmentation, possessed only the slightest trace of military fraternities. Informants explained that their societies were something like a combination of our present-day army regiment and lodge organization. Their dearth of historical data and the paucity of material, combined with the lack of information on the part of contemporary Comanches, indicates that the associations were not a developed and integrated part of Comanche culture. There is no evidence that they played an important role in social control and government.

642 Such formal government as existed was limited to the activities of the peace chiefs and war leaders, who acted separately or through the medium of the band councils. The Comanches, like almost all of the tribes east of the Rockies, militarists though they were, wanted no military *junta*. They knew the value and need for constitutional separation of civil and military power. From their point of view, that government was best which governed least.

671 The law system of the Comanche tribe was primitive but dynamic —and exciting. It lacked the maturity and balance of the Cheyenne way. It was crude and lacking in juridical subtlety, but it was fluid, inventive, and colored with its own ideals of justice.

Comanche law-ways functioned without benefit of courts. As might well be expected, in view of the ambiguity of powers of the political chieftains, there were no public officials endowed with law-speaking or law-enforcing authority. Comanche law was neither legislated nor judge-made. It was hammered out on the hard anvil of individual cases by claimant and defendant pressing the issues in terms of Comanche notions of individual rights and tribal standards of right conduct.

It was almost exclusively a system of private law—a law in which the responsibility for instituting legal actions rested with the aggrieved party—a law in which the aggrieved and his personal supporters had

[10] J. H. Provinse, "The Underlying Sanctions of Plains Indian Society," in F. Eggan (ed.), *Social Organization of North American Tribes*, 341–449.

21: Burnet 1-5 (1818-1819) 1954 NO6 Comanche)6
Texas

[ca. 1818]

175 628 tion of country which custom seems to have appropriated to its more special use and occupancy.

621 622 175 These three great national parties, are subdivided into captaincies or villages, to each of which is appointed a chief, whose distinction seems to consist rather in name than authority. His name however, gives title to the flying village, and is useful in this respect, as some sign of discrimination is necessary, and they can derive none from locality. These 621 175 subdivisions are various and contingent, each member being at liberty to withdraw from one village and unite with another, as caprice or convenience may dictate.

175 221 As the Comanchees do not cultivate the ground, but derive their subsistence from the spontaneous productions of nature, and chiefly from the animal kingdom, they are necessarily migratory, and obliged to change their encampment every ten or fifteen days. The scarcity of game, which [231] is soon taught to avoid their dangerous neighborhood, and the speedy exhaustion of convenient pasturage, which is indispensable to the subsistence of their large herds of mules and horses, are the principal reasons for such frequent removals. When about to abandon a position, they generally 175 fire the grass, to give intelligence of their decampment to 202 absentees;—smoke is likewise employed as a telegraph to announce the return of a war party. It is not uncommon to see, at the same time, 8 or 10 of these signals darkening the horizon, and rearing their columns in gloomy grandeur, to the vertex of a serene and brilliant atmosphere.

175 643 The three parties collectively acknowledge one head or grand Chief, who is selected from either party. His appointment is indefinite as to duration and extent of authority, the latter depending more on the force of his personal character, than on the investments of office. Indeed a positive 175 official authority, is not recognized in their crude system [642] of government. They have but few traditionary laws, and [671] these, they are not always capable of enforcing. Compulsion is seldom exercised on a refractory culprit; and when [692] imperious circumstances require it to be done, it is effected by a convention of chiefs, whose personal influences become auxiliary to an otherwise impotent authority.

22: Dacus Q-3 (no date) 1960 N06 Comanche N06
(ca. 1870)

[ca. 1870]

The husband may repudiate his wife or wives at any time, and take back his presents. The wife too, for some causes, may rebel against her tyrant lord, and leave off serving him. This course on the part of a Comanche wife, covers the husband with such disgrace that it can only be removed by killing someone—the first person he may happen to meet is made the victim. It nearly always happens that he first meets with his truant wife, or some near friend of hers, first after suffering the great disgrace, and, of course, he proceeds to slay her, or the vicarious relative.

IF THE COMANCHE can be said to live under any government, it may be set down as a radical democracy. The war chiefs are elected, on occasions of war, by the council of warriors. Their authority is only countenanced and their commands obeyed while hostilities continue. In peace, their authority is merely that derived from their wealth and prowess. The Comanches honor courage and skill in war, and the successful warrior is generally made a chief of some band. There is no unity in the tribe. Besides the seven sub-tribes into which they are divided, each of the seven is made up of small parties, each of which has a leader. In many respects the autonomy of the Comanche tribe differs from any other North American Indians. In most respects, the tribal government is very much the same as found among Xicarillo, Mescaleros, and other wandering Apaches, to which family it is claimed they are nearly related. But in two or three important particulars their method or system of government is entirely distinct from and wholly unlike that of any other people.

When a chief or prominent warrior wishes to organize a warlike expedition, he takes his yellow shield, puts on his eagle plumes, smears war-paint over his face, and assuming the weapons borne by warriors, he rides at a furious pace among the lodges, chanting his war-song as he goes. Any warrior who has taken two scalps may thus organize a marauding expedition, and no authority of chiefs or councils can prevent it. If there are warriors willing to join him they immediately mount their ponies, armed and equipped, and follow the warrior, who first declared war. Their chant is united with his, and thus a war party is made up. But it is not often that the entire band declares for war. The promoter of the war may be a simple warrior, without any authority whatever. For that particular expedition he may be chosen chief, or they may select another to lead them. When going against an enemy the commands of the chiefs are generally obeyed with alacrity. In peaceful seasons they have virtually no chief, or rather every venerable warrior among them is a chief, whose

29: Hoebel E-4,5 (1933) 1969 NO6 Comanche NO6

Out of apparent weakness emerged the wildest marauding brigandage. The Comanches whipped and drove the Apaches from the southern Plains. They stalemated the Spanish. They decimated the pueblo of Pecos. They ranged far below the Rio Grande on slave- and booty-taking raids into Old Mexico. They blocked the westward expansion of the Texas frontier for several decades. They became "The Spartans of the Prairies." They were rough, tough, aggressive and militant individualists. They gave trouble to all their enemies and to themselves. And in their way, out of the nothingness of Shoshone legal backgrounds they shaped a crude but effective system of law to cope with the clashes of individual with individual within their ranks.

. . .

The basic postulates of the Comanche way of life are simple and few. They express a strong individualism and man-to-man aggressiveness in the following terms:

Postulate I. The individual is supreme in all things.

Postulate II. The self of the male is realized in striving for accumulated war honors, horses, and women.

Postulate III. Women are sexually and economically desirable but are inferior and subordinate to men.

Corollary 1. The sex rights of a husband to his wife are limited to himself and his brothers.

Postulate IV. The strongest social tie is that of brother to brother.

Postulate V. Sexual relations between kin (incest) constitutes subhuman behavior.

Postulate VI. War is essential to the prosperity of the tribe and the individual self-expression of the male.

Postulate VII. The great spirits (Sun and Earth) have powers of "legal" judgment.

Postulate VIII. Each Comanche ought to cooperate with others and help them in their life's activities.

Corollary 1. Altruism and sharing of goods is socially desirable.

Corollary 2. The killing of a fellow tribesman is not permissible.

Postulate IX. Horses, especially favorite horses, have quasi-human personalities.

The simple needs of Comanche society did not impose any great social pressure for governmental controls, and the high value placed upon individual freedom of action also worked to hold government at a minimum. If a Comanche had been invited to subscribe to a political slogan, he would have given his assent to the proposition that "that government is best which governs least." So fully was this precept expressed in a lack of political action that That's It, one of the most acute of our Comanche informants,

29: Hoebel E-4,5 (1933) 1969 NO6 Comanche NO6

622 in commenting on the band headmen, or peace chiefs, remarked, "I hardly
[642] known how to tell about them; they never had much to do except to hold the band together." The headman was a magnet at the core of the band, but his influence was so subtle that it almost defies explicit description. He worked through precept, advice, and good humor, expressing his wisdom through well-chosen words and persuasive common sense. He was not elected to office or even chosen. "He just got that way." His role and status were only slightly more institutionalized than were those of the Eskimo headman. In the making of any important decisions of group policy all men were free to have their say. Yet among them all, the wiser old head, whose time-tested judgment the people respected, was the leader. In matters of daily routine, such as camp moving, he merely made the decisions himself, announcing them through a camp crier. Anyone who did not like his decision simply ignored it. If in time a good many people ignored his announcements and preferred to stay behind with some other man of influence, or perhaps to move in another direction with that man, the chief had then lost his following. He was no longer chief, and another had quietly superseded him.

624 War chiefs were outstanding fighters whose accumulated records of
555 honored deeds were tangible evidence of their prestige status. Any Comanche
701 was free to initiate a raid or organize a war party—if he could muster a
721 band of followers. The Comanches were chronically at war with the Ute, Pawnee, Apache, Osage, Tonkaway, and sundry other tribes. In later days, the whites of Texas and the Mexicans on both sides of the Rio Grande were fair game. War, for the Comanches, was certainly a national pastime, if not the conscious practice of a national political policy. We suspect it was both. But so far as it was a national policy, it was not explicitly directed
[555] by a governing military or political body. It was a matter of individual motivation, prepared by training since infancy and spurred by a social system that gave rich psychological rewards to the men who were bravest in the face of the enemy or most successful in running off the horses of hostile tribes or the horses and cattle of Texas ranchers.

701 On the raid the leader of the war party—the man who had organized
624 it—had temporary dictatorial powers such as a peace chief never enjoyed. He determined the objectives of the raid; he appointed scouts, cooks and water carriers; he set the camping places and the route of march; he divided the booty, if booty there was. In all his directives he was implicitly obeyed. If anyone seriously objected, he was free to leave the party and go his own way. Success on the raid demanded tough leadership, and the followers of a war chief submitted to it. Yet so strong was the Comanche sense of individual freedom that at any point a man could pick up his arrows and go home.

624 In view of their basic values of individual supremacy and the related

35: United States W-4 (no date) 1974
N06 Comanche N06
Oklahoma

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GOVERNMENT

The tribe's constitution and bylaws were adopted and approved by the Bureau of Indian Affairs in 1966. The tribal business committee is the governing body and is composed of a chairman, vice chairman, secretary-treasurer, and five committee members. They are not organized under the Oklahoma Indian Welfare Act.

Vital Statistics

162 Population:
Indians residing on or adjacent to reservation: 3,300

162 Labor Force:
464 Total: 551
Unemployed: 125
Unemployment rate: 23%

871 Education:
(tribal estimates)
Average grade level achieved: 9th
Number graduated from college in 1972: 11